

STATEMENT OF REP. JOHN CONYERS, JR.  
Courts, the Internet, and Intellectual Property Subcommittee  
Hearing on H.R. 2723, the “Ninth Circuit Court of Appeals Judgeship and  
Reorganization Act of 2003”  
Tuesday, October 21, 2003

The issue before us today is whether the Ninth Circuit Court of Appeals is able to competently perform its duties as it is currently structured.

H.R. 2723 purports to divide the Ninth Circuit because the Court is too big and as a result, the Ninth Circuit experiences an unmanageable caseload, inconsistent decisions, and higher reversal rates. Refusing to speculate on other reasons as to why there is such a strong interest in dividing this Circuit, I will focus today on why the Ninth Circuit is able to efficiently and effectively carry out its responsibilities.

First, I would like to address the argument that the Ninth Circuit should be split in order to relieve it of its heavy caseload. As 80% of the cases come from California, reducing the composition of the Ninth Circuit to California, Nevada, and Arizona would not decrease the amount of work experienced by the Court.

Today, Mary Schroeder, Chief Judge of the United States Court of Appeals for the Ninth Circuit, will testify that in addition to not reducing the caseload, her Court is fully equipped to handle all of its work. Twenty-seven of its 28 judgeships have been filled and the Court has substantially reduced the time needed to calendar and decide cases since July 2002, when Judge Schroeder first appeared before this Committee and testified on this matter.

Second, I would like to respond to the argument that the Ninth Circuit in its current form produces inconsistent decisions. Advancements in technology have had a profound effect on our courts and new resources, like an issue tracking system, allow judges to remain up to date with decisions by other panels on similar issues.

Furthermore, maintaining the Ninth Circuit in its existing form promises efficiency and uniformity as the states that currently make up the Circuit share significant legal interests. The states share an interest in land and water issues, as well as Native American issues.

Lastly, I would like to address the theory that the Ninth Circuit experiences a higher reversal rate. The Ninth Circuit's reversal rate is just 2% higher than the national average. Last term the Court's reversal rate was 75%, while four other circuits had 100% reversal rates.

The sole basis for dividing the Ninth Circuit should be if the Court is unable to competently perform its duties. For the reasons that I have just stated, as well as for others that will be discussed at today's hearing, this is not the case. Splitting the Ninth Circuit will not do anything to improve judicial efficiency. Actually, such a split appears as if it will do little more than unnecessarily burden taxpayers, as a significant financial cost will come with the restructuring of the Ninth Circuit and creating a new Twelfth circuit as proposed by H.R. 2723.

As such, I oppose any attempt to restructure the Ninth Circuit Court of Appeals.